

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

November 30, 2007

No. 06-51103

Charles R. Fulbruge III
Clerk

DARRELL ARNETT, as Administrator for the Estate of Jenni Arnett and all others similarly situated,

Plaintiff - Appellant,

v.

SUSAN COMBS, as Comptroller for the State of Texas; STATE OF TEXAS,

Defendants - Appellees.

Appeal from the United States District Court
for the Western District of Texas

Before KING, GARZA, and BENAVIDES, Circuit Judges.

PER CURIAM:

This case presents a challenge to the Texas Unclaimed Property Law. TEX. PROP. CODE ANN. §§ 72.001–75.102 (Vernon 2007).

The plaintiff-appellant Darrell Arnett brought this class action against the Texas State Comptroller and the State of Texas, on behalf of himself and others similarly situated, alleging among other claims that the Comptroller's practice of retaining the revenue generated from unclaimed property held by the State pursuant to its Unclaimed Property Law constitutes a taking without just compensation in violation of the Fifth and Fourteenth Amendments to the United States Constitution. As relief, Arnett sought the return of the revenue generated from the unclaimed property, an injunction prohibiting the State from

retaining any future revenue from the unclaimed property, a declaratory judgment that the Unclaimed Property Law is unconstitutional, an accounting of the revenue generated, and attorney's fees.

The district court dismissed Arnett's claims for monetary relief on Eleventh Amendment immunity grounds. The court also denied Arnett's motion for class certification. The district court concluded that, as to the claims for declaratory and injunctive relief, Arnett was not an adequate class representative and class certification would serve no useful purpose. In a subsequent order, the court found that Arnett lacked standing to seek declaratory or injunctive relief and dismissed the remainder of the action. Arnett appealed.

We AFFIRM for the reasons stated by the district court in its orders dated July 26, 2006 and May 16, 2006. See *Arnett v. Strayhorn*, ___ F. Supp. 2d ___, 2006 WL 4869165 (W.D. Tex. July 26, 2006); *Arnett v. Strayhorn*, ___ F. Supp. 2d ___, 2006 WL 4869166 (W.D. Tex. May 16, 2006).